

### **REMARKS/ARGUMENTS**

The office action of September 24, 2003 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claim 1 has been amended to recite: "wherein the holder transports whole plant cuttings placed in the holder." Support for this amendment is found in Figure 1, which clearly shows the entire or whole plant cutting placed in the holder. Support is also found in the specification, which describes the function of the instant invention is to transport plant cuttings in a manner that does not damage the plants. No new matter or new issues are raised by this amendment.

The indication that claims 18-20 remain allowable if rewritten in independent form is appreciated.

Claims 1-5, 7-9, and 25-26 remain rejected as being anticipated by Miller and claims 25-26 remain rejected as obvious over Miller.

Miller is directed to a plant support means for plants *planted in the ground*, such as vines in a vineyard, or tomatoes or cucumbers. Miller's device supports only an *upper portion* of a plant. The ground supports the bottom portion of the plant. If the plant is removed from the ground or is cut, the plant will not be supported in a manner to be transported safely.

The Office Action considers that a plant could be in a vase or in a pot, and thus the device could be used for transport. If this is the case, the vase or pot is picked up and moved, not the holder. Moreover, Miller's device requires end posts 8 having a series of screws 9 designed to support end brackets 10 of bar 11 at different levels. The purpose is to stick the end posts in the ground and as the plants grow, bar 11 is adjusted upward with the plants. It is not clear how the plant supporting means would function with plants in a vase or in pots or as a carrier. Nor is it clear how the entire structure (holder, plant, and pots) could be easily moved.

As noted above, if Miller is used as directed, Miller holds the plants *in the ground* in a parallel manner since stalk plants tend to grow vertically. In contrast, the claimed invention requires that "*plant cuttings* clamped in the clamping elements *extend substantially parallel to*

*each other.*” However, should one try to use Miller’s device with plant *cuttings* (which have no support in the ground), the plant cuttings would lean or fall over, twist, get tangled with each other, etc. That is, in Miller, cuttings held in place by the cord or rope in accordance with Miller could not *extend substantially parallel to each other* as required by the instant claims. The instant claims require a holder that holds the whole plant cutting, not just support a portion of it.

In order to hold the plant cutting without damaging the clipping, the instant claims utilize a series of clamps. The clamps are defined by the specification and claims. A cord or rope is not a clamp in accordance with the definition of clamp. Moreover, the cord or rope would likely strangle a plant if used to transport the plant from one place to another.

Miller simply does not teach or suggest a clamp in accordance with the instant claims. Miller states in column 1, lines 17-20, “plants can be readily secured to the device without damage to foliage, stalks, etc. and in a fashion to adequately support the stalks and foliage and/or other load.” Thus, the plants are secured to the plant supporting means, but secured in order to prevent the plant from falling over, not for carrying the plant around.

Miller therefore does not anticipate nor render obvious the instant claims. Withdrawal of the rejections over Miller is requested.

Claims 1, 3-5, 7-12, 14, and 21-24 stand rejected as obvious over Tai, and claims 6 and 13 remain rejected as obvious over Tai in view of Nasuno and Court, respectfully.

Tai is directed to a clip for clipping the stem of a plant to a stick. Tai offers support only in the horizontal direction, there is no need to provide support in the vertical direction. The stick is placed in the ground or soil in a pot, and serves only as a support for part of the plant. The ground or soil in a pot provides support for the remaining portion of the plant. The clip and stick is designed to help support a single plant. It is not designed as a holder to transport plant *cuttings*, which have no support in the ground or soil.

Tai is not directed to a holder to transport plant cuttings. Tai’s clamp and stick may be used to support a plant during *transport of the pot*, but it cannot be used to transport a series of plant *cuttings* in a manner as the instant claims. As stated above, Tai supports the plant in a vertical direction. In order to arrive at the claimed invention, the clamps would need to be

rotated on the stick to hold the plants perpendicular to the stick. There is simply no reason that one skilled in the art would have rotated the clamps because it would have defeated the purpose of the Tai device – to support plants in pots.

Nasuno likewise is directed to a clip for clipping the stem of a plant to a stick and offers only support in the horizontal direction. Because the bottom of the plant is on soil, as in Tai, there is no need to provide support in the vertical direction. Even if one skilled in the art would have modified Tai in view of Nasuno, one skilled in the art would not have arrived at the instant claims directed to a holder suitable for plant clippings.

Court discloses a reinforcing unit for slack plant stems, especially when flowers are heavy. That is, Court supports the head of a cut flower to prevent drooping. Court is not directed to a holder having a series of clamps to transport several plant cuttings at one time. Each flower in Court would have its own support and the flowers may be used collectively in a vase, for example. A florist would not want a holder having a series of clamps in accordance with the instant claims as such holder would not be suitable for flower arrangements. The holder of the instant claims is designed for safely transporting plant clippings.

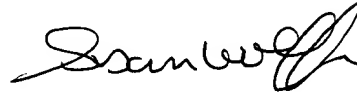
There is simply no reason to modify Tai as indicated in the Office Action because such a modification would defeat the purpose of the holder of Tai. Court supports individual blossom heads of cut flowers whereas Tai supports plants in soil. Neither Tai nor Court is directed to a holder containing a series of clamps to transport several clippings at one time. These rejections can only be based on hindsight afforded by the instant claims.

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Reply to Office Action of May 30, 2003

**CONCLUSION**

In view of the above remarks, withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,



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